

State of Wisconsin
Department of Natural Resources
Manual Code 9521.1 – Open Records Policy and Procedures

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Rescinds and Replaces: 9521.1 signed 07/19/2012
Division: Internal Services

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I. SCOPE

This manual code applies to all department records held by any employee, volunteer, contractor or intern.

II. POLICY

It is the Department's policy to provide timely, responsive public service to open records requests, while making the most efficient use of staff time and resources.

III. DEFINITIONS

"Record" means "any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks.

"Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library." [§ [19.32\(2\)](#), Wis. Stats.]

"Open Records Request" means any request for files/records created or maintained by the Department.

"Information Request" means a question or request for information that is not a request for records. The requested information may or may not be contained in records.

"Location time" means the time spent searching, examining, or experimenting to find responsive records. The Department can only charge for location time if the cost is \$50 or more (excluding time spent reviewing or redacting documents).

"Department Open Records Coordinator" means the employee that oversees all matters related to open records, including: policy, procedure, and training. This position oversees the completion of all complex open records requests, and is the main point of contact for all internal and external open records related questions and issues.

“Division Open Records Coordinators” means the employee who coordinates or oversees the completion of complex requests for a specific division. This position also completes the division review of records for complex requests, and consults with legal as necessary.

“Program or Regional Open Records Coordinators” means staff that are trained to assist with fulfilling complex open records requests.

IV. PROCEDURE

A. Types of Requests

1. Complex Request

- Requests for records that are held by multiple divisions, programs, and/or regions
 - Requests related to personnel records or issues
 - Requests regarding issues on which a lawsuit has been or is likely to be filed
 - Requests related to tribal matters
 - Requests where records will be withheld or redacted
- Designation as “complex” is not intended to delay response, but is instead a recognition of need for additional coordination and potential legal review. Responses will be made as soon as practicable and without delay.

2. Simple Request

- A request that is not complex
- Staff should fulfill any small and straightforward requests within 10 business days of receipt whenever it is practicable to do so.

B. Process Overview

1. Complex Requests

- a. If the request is complex forward to the Department Open Records Coordinator, or your Division Open Records Coordinator. These requests require additional coordination, and may require legal review before they are released (Instructions for open records coordinators can be found in the Open Records Coordinator Guide).

b. Staff Responsibilities When Providing Records For Complex Requests

- i. If identified as a potential record holder for a complex request, a coordinator will ask you to collect any records you have that are responsive to the request. It is your responsibility to:

- Locate and compile only records that are responsive to the request (correct timeframe, responsive subject matter).
- Keep track of the time it takes to locate records.
- Separate documents into a different folder that may not be records (i.e. drafts, personal notes), or records that may be confidential (i.e. attorney/client communications, attorney work product, records related to ongoing enforcement) for division review, and legal review if necessary.
- **If these responsibilities are not met, coordinators will send records back to appropriate staff until they have been completed.**

2. Simple Requests

- a. Respond to requester acknowledging receipt of request.
- b. Compile records responsive to request.
- c. If cost associated with locating records is \$50 or more, or costs associated with copying will be \$10 or more, contact your Division Coordinator for assistance with billing.
- d. Contact the requester with review/copying options and invoice (as necessary).
- e. After request is complete, log in Simple Request SharePoint site ([Open Records Request – Simple](#)).
- f. For help determining if you are the appropriate staff to respond to a particular open records request see “Is this a simple request?”

C. Communicating With Requesters

1. Staff should establish communication within 2-3 business days of receiving request. Let them know that you have received the request and are working on it. If possible give them a realistic estimate of turnaround time (Note: Pursuant to Executive Order 189, requests made to dnrrecordsresponse@wisconsin.gov will receive acknowledgement within the next business day).
2. If aspects of the request are too broad, or you do not understand what the requester is asking for, contact the requester to clarify/narrow the request. Requesters may not be aware of the scope, type, or locations of records held by DNR. Try to clarify a broad request by subject, location, date range, etc.
3. Keep in touch with the requester if any delays or other issues arise that will affect when the records will be available. Staff should make best efforts to reasonably update the requester.

4. When a requester asks for an update on the status of his or her request, respond to the requester within 5 business days.
5. Requesters occasionally show up in person and ask to inspect records immediately. In many cases, the records may not be immediately available. Inform the requester that staff will follow up to arrange for file review when the records have been gathered.
6. When closing a request, identify in your response that “This request will now be considered closed.” This can help avoid confusion on expectations for further follow up.

D. Requester Review

1. If the requester wants to review records in person, follow these steps:
 - a. Arrange a time and location for review during normal working hours.
 - b. Ensure that a program or other appropriate staff person is available while the records are being reviewed.
 - c. Ask the requester to flag any files to be copied. Post-its or similar items which will not damage the records to be copied are commonly used.

E. Providing Copies

1. Paper Records
 - a. Copying/scanning can be done in-house if a copy machine is available and the number of copies is small.
 - b. Generally if the copying is going to take more than a half hour, send records to a copying service if available in your area. The copying service should bill the requester directly for the copying cost [List of Approved Photocopy Firms](#).
2. Electronic Records
 - a. When requested and whenever practicable, provide electronic copies of records that already exist in an electronic format.
 - b. There is no requirement to convert paper records into electronic format. You may provide records electronically if there are a small number of pages that would be easy to scan. Options for providing electronic records include:
 - i. Send via email
 - ii. Copy to a disk or thumb drive (Can be added to cost of request)
 - iii. Records can be posted to a password protected external SharePoint site (contact Department Open Records Coordinator for assistance).

F. Open Records Fees

1. The Department may charge fees for locating records if the cost associated with locating records is \$50 or more (Payment should be received before requester reviews records, or copies are provided).
2. The Department may charge for fees associated with copying if the total cost is \$10 or more. This includes:
 - a. Per page copying cost
 - b. Per page scanning cost
 - c. Cost for media (i.e. Cds, DVDs, Flash drives)
 - d. Postage cost for mailing records
3. Fees may not be charged for providing electronic copies of records that already exist in an electronic format.
4. Fees may not be charged for reviewing and redacting records.
5. Please see [“Public Notice – Access To DNR Records and Fees”](#) for list of fees for open records requests.

G. Creating Records

In accordance with Wis. Stat. § 19.35(1)(L), DNR employees are not required to create new paper files, or otherwise restructure existing DNR records in response to an open records request. Discuss with your supervisor if you believe you have a situation that warrants the creation of a record.

- See MC 9522.1 Email and Electronic Records and the Records Law regarding database requests.

V. ADDITIONAL INFORMATION

For additional information on records review the following:

1. MC 9522.1 Email and Electronic Records and the Records Law
2. HB 9520.5 Records Management Handbook
3. MC9551.1 Service Delivery and Responsiveness Standards